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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,340	03/12/2004	Doug Wroblewski	0644-032407	6222
28289 7590 12/10/2008 THE WEBB LAW FIRM, P.C. 700 KOPPERS BUILDING 436 SEVENTH AVENUE PITTSBURGH, PA 15219				
EXAMINER				
KENNY, DANIEL J				
ART UNIT		PAPER NUMBER		
3633				
MAIL DATE		DELIVERY MODE		
12/10/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/799,340

**Applicant(s)**

WROBLEWSKI, DOUG

**Examiner**

DANIEL KENNY

**Art Unit**

3633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 October 2008.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-4, 6, 8, 9, 13-15, 17 and 19 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 2-4, 6, 8, 9, 13-15, 17 and 19 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/808)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

Claims 2-4, 6, 8, 9, and 19 - are rejected under 35 U.S.C. 102(b) as being anticipated by Sondrup (6,269,495).

Sondrup discloses a drain comprising:

**Claim 8** - a drain body (18, 20) defining a drain cavity (22);

a frame (14 and se) having a securable end (se) received by said drain body and an exposed end (ee), said frame being rotatable relative to said drain body for adjusting the position of said frame exposed end;

a clamp (16, 24) for fixing said securable end of said frame to said drain body;  
and

a grate (12) received by said exposed end of said frame, wherein said drain body comprises a ledge (18a) having a sloped surface, said frame securable end slidably engaging said surface of said sloped surface of said ledge when said frame is rotated relative to said drain body;

the clamp comprises a clamp body having a protrusion (p) for clamping said frame securable end to said drain body;

wherein said clamp further comprises a fastener (16) extending (in a radial direction) beyond said frame securable end and said clamp body and being threaded into said drain body (col. 3, lines 23 and 24).

**Claim 9** - a drain body (18, 20) defining a drain cavity (22);

a frame (14 and se) having a securable end (se) received by said drain body and an exposed end (ee), said frame being rotatable relative to said drain body for adjusting the position of said frame exposed end;

a clamp (16, 24) for fixing said securable end of said frame to said drain body;  
and

a grate (12) received by said exposed end of said frame, wherein said drain body comprises a ledge (18a) having a sloped surface, said frame securable end slidably engaging said surface of said sloped surface of said ledge when said frame is rotated relative to said drain body;

the clamp comprises a clamp body having a protrusion (p) for clamping said frame securable end to said drain body;

wherein said drain body comprises a fastener receiving member (18a) extending into said drain cavity whereby said clamp body protrusion is configured to clamp said frame securable end to said fastener receiving member.

**Claim 19** – a drain comprising: a drain body defining a drain cavity;

a frame having a securable end received by said drain body and an exposed end, said frame being rotatable relative to said drain body for adjusting the position of said frame exposed end;

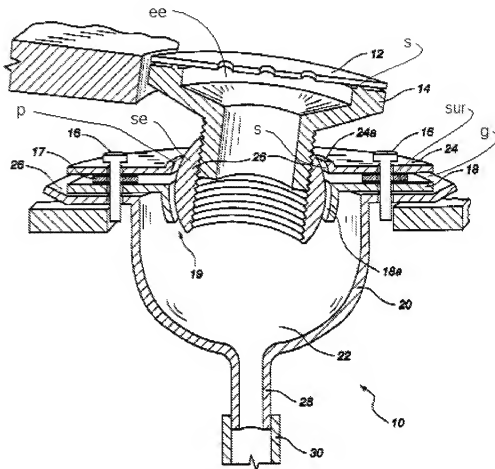
a clamp for fixing said securable end of said frame to said drain body; and a grate received by said exposed end of said frame, wherein said clamp comprises a

clamp body having a protrusion for clamping said frame securable end to said drain body, and wherein said clamp body comprises a sloped drain body engaging surface (s) to provide a gap between a portion of said drain body engaging surface and said drain body.

**Claims 2 and 21** – The frame securable end is circular.

**Claims 3, 4, and 20** – The frame exposed end may have any shape (col. 4, lines 32 and 33).

**Claim 6** – The frame exposed end comprises a seat (s), said grate being fixed to said seat.



Annotated Fig. 1 (U.S. Pat. 6,269,495)

### ***Claim Rejections - 35 USC § 103***

Claim 17 and 13-15 - are rejected under 35 U.S.C. 103(a) as being unpatentable over Sondrup.

**Claim 17** – is an obvious method of using the drain of Sondrup, such reference disclosing the clamping step comprising extending a fastener through the clamp body and beyond (in an axial direction) the securable end of the frame and threading the fastener into the drain body.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL KENNY whose telephone number is (571)272-9951. The examiner can normally be reached on Monday thru Friday, 9 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. K./ 12/8/2008  
Examiner, Art Unit 3633

/Jeanette E Chapman/  
Primary Examiner, Art Unit 3633